

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:05-CR-00105-RJC

USA

v.

CEDRIC LEE BENTON (2)

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ORDER

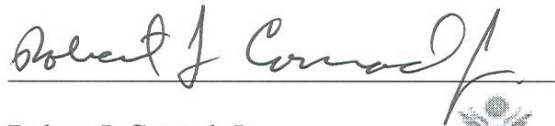
**THIS MATTER** is before the Court upon motion of the defendant pro se for a reduction of sentence based on retroactive amendments to the United States Sentencing Guidelines regarding drug offenses, (Doc. No. 99), counsel's Notices of Ineligibility, (Doc. Nos. 89, 95), and related pleadings.

The offense level for the defendant's drug offense was determined pursuant to the career offender guideline. (Doc. No. 97: Supplemental Presentence Report at 1). The career offender guideline sets the offense level in relation to the maximum statutory penalty, USSG §4B1.1(b), and was not affected by the 2007 amendments, USSG Supp. to Appx. C., Amend. 706 (2011). Accordingly, the defendant is not eligible for a sentence reduction under the guidelines. USSG §1B1.10 comment. (n.1(A)(ii)) (defendant not eligible for reduction where another guideline provision prevents lowering of guideline range); Neal v. United States, 516 U.S. 284, 296 (1996) (retroactive amendment to guidelines does not alter statutory mandatory minimum).

**IT IS, THEREFORE, ORDERED** that the defendant's motion, (Doc. No. 99), is **DENIED**.

The Clerk is directed to certify copies of this order to the defendant, the Community Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: January 16, 2019

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.  
United States District Judge

